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EXAMINER
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POGMORE, TRAVIS D

ART UNIT	PAPER NUMBER
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2436

NOTIFICATION DATE	DELIVERY MODE
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05/06/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/563,918	<b>Applicant(s)</b> GUDMUNDSSON ET AL.	
	<b>Examiner</b> Travis Pogmore	<b>Art Unit</b> 2436	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 62 and 64-92 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 62 and 64-92 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is in response to the request for reconsideration filed March 5, 2009.
2. Claims 62 and 64-92 are currently pending. Claim 63 has been canceled. Claims 64, 66-74, 78, 80-88 and 90-92 have been previously presented. Claims 62, 65, 75-77, 79 and 89 are amended.
3. Applicant's arguments, with regards to claims 62 and 64-92, filed March 5, 2009 have been fully considered but they are not persuasive.

### ***Examiner Notes***

4. Examiner cites particular columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.
5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Objections***

6. Applicant's arguments, see pages 9-10, and respective amendments with respect to the informalities of claims 64-67, 77-79, 81 and 89 have been fully considered and are persuasive. The objections thereof have been withdrawn.

### ***Claim Rejections – 35 USC § 112***

7. Applicant's arguments, see page 11, with respect to the written description of claims 90-92 have been fully considered and are persuasive. The § 112 rejections thereof have been withdrawn.

### ***Claim Rejections – 35 USC § 101***

8. Claim 90 is rejected under 35 U.S.C. 101 as directed to non-statutory subject matter of software, *per se* (a "computer program product" which is lacking definition in the specification and thus under the broadest reasonable interpretation comprises software). The claim lacks the necessary physical articles or objects to constitute a machine or manufacture within the meaning of 35 U.S.C. 101. It is clearly not a series of steps or acts to be a process nor is it a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. It is at best, function descriptive material *per se*.

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material." Both types of "descriptive material" are non-statutory when claimed as descriptive material *per se*, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable

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medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994).

Merely claiming non-functional descriptive material, i.e. abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because “[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer.”).

Claims 91 and 92 are rejected under 35 U.S.C. 101 as non-statutory for at least the reason stated above. Claims 91 and 92 are dependent upon claim 90; however, they do not add any feature or subject matter that would solve any of the non-statutory deficiencies of claim 90.

### ***Claim Rejections – 35 USC § 103***

9. Claims 62, 64-71, and 73-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,398,708 (hereinafter “Goldman”) in view of U.S. Patent No. 5,282,620 (hereinafter “Keese”) in further view of WIPO Patent App. Pub. No. WO 98/40140 (hereinafter “Muir”) in further view of U.S. Patent No. 6,447,251 (hereinafter “Szrek”).

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As to claim 62, Goldman teaches a method of obtaining security and audit ability in a system, the method comprising the steps of:

- generating a random number by means of a random number generator (column 18, line 61 to column 19, line 3, the validation code),

- providing a sequence number for each of the random numbers generated so as to create a random number - sequence number pair (column 18, lines 37-41 and column 19, lines 22-25, the internal sequence number which, when combined with the validation code, produces the "sync" number),

- storing the created random number - sequence number pair in a storage means (column 19, lines 52-59 and Fig. 7, reference 91),

the method further comprising the step of, at a chosen time, verifying stored random number - sequence number pairs, so as to ensure that every stored random number - sequence number pair is an authentic random number - sequence number pair (column 19, lines 49-67), but does not specifically teach its use in an on-line system, wherein the storing step is performed by storing the random number - sequence number pair in a storage means with one or more limited access area(s), or wherein the limited access area generates a transaction log comprising a customer-id.

However, Keesee teaches that using a computer system (and more specifically a lottery system) on-line is well known and expected in the art (column 1, lines 17-18).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the teachings of Goldman to use the

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computer system on-line as indicated in Keesee (instead of just locally) in order to allow a broader application of the secure and auditable system.

Furthermore, Muir teaches wherein the storing step is performed by storing the random number - sequence number pair in a storage means with one or more limited access area(s) (page 1, lines 17-21).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the teachings of Goldman to allow only limited access to the storage means as indicated in Muir to increase physical security for the on-line system.

Furthermore, Szrek teaches wherein the limited access area generates a transaction log comprising a customer-id (column 4, lines 9-16 and 37-40, the personal computers or other processors are identified by digital signatures (i.e. customer-ids)).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the teachings of Goldman to use a transaction log as part of the limited access area indicated in Szrek to increase audit ability for the on-line system, in particular adding the ability to track the verifications and access of the first limited access area in a separate secure area.

As to claim 64, Muir teaches wherein access to the limited access area(s) can only be obtained by one or more authorised persons (page 1, lines 22-31, where an authorised person is someone possessing a key to a physical lock and/or a government inspector).

As to claim 65, Szrek teaches wherein the transaction log (column 4, lines 9-13) further comprises:

- a timestamp (column 4, lines 13-16),
- a game-id (column 4, lines 13-16, where the actual event that was generated is the method of claim 62, the game-id in particular being anticipated in Goldman, column 6, lines 30-35 and 47-50),
- a sequence number (column 4, lines 13-16, where the actual event that was generated is the method of claim 62), and
- a random number (column 4, lines 13-16, where the actual event that was generated is the method of claim 62),

wherein the transaction log is stored in a second limited access area (column 4, lines 49-54 and column 7, lines 45-57).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the teachings of Goldman and Keesee to use a transaction log as part of the limited access area indicated in Szrek to increase audit ability for the on-line system, in particular adding the ability to track the verifications and access of the first limited access area in a separate secure area.

As to claim 66, Goldman teaches wherein the limited access area further comprises a prize table (column 18, lines 45-49).



As to claim 67, Szrek teaches wherein the transaction log is used to audit transactions in an online system by one or more audit processes performed by audit processing means (column 4, lines 23-33).

As to claim 68, Goldman teaches further comprising the step of issuing a ticket comprising information relating to the sequence number (column 16, line 67 to column 17, line 6 and column 19, lines 14-21, the “Inventory Serial Number” provides information relating to the sequence number).

As to claim 69, Goldman teaches wherein the on-line system is a lottery, and the issued ticket is a lottery ticket (Abstract, lines 1-5).

As to claim 70, Goldman teaches wherein the ticket further comprises information relating to a winning/no winning category of the ticket (column 19, lines 22-30).

As to claim 71, Goldman teaches wherein the step of issuing a ticket is based upon the random number and a probability table (column 10, lines 6-15 and 25-43, the overall closed pool of lottery numbers is the probability table with each of them possessing equal odds of being chosen, the “parameter look-up table” that defines the desired distribution of winners ensures appropriate probability of any given number being a winning number), the method further comprising the step of updating the

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probability table in response to the issued ticket, so as to maintain an at least substantially fixed winning/no winning ratio (column 10, lines 43-48).

As to claim 73, Goldman teaches further comprising the step of alerting an operator in case the verifying step results in the discovery of one or more non-authentic random number - sequence number pairs (column 19, line 44 to column 20, line 2, the output validation report serves to alert an operator).

As to claim 74, Goldman teaches wherein the verifying step comprises the steps of:

- checking whether a given random number - sequence number pair has previously been stored in the storage means (column 19, lines 59-62),

- marking said given random number - sequence number pair as a true pair in case it has previously been stored in the storage means (column 19, lines 62-67, having reversed the randomizing process and checked the “sync” number (i.e. random number – sequence number pair) against the reference-file (i.e. storage means) the validation program is able to determine whether the provided number is valid, which is to say it must be in the reference-file and possess valid game data), and

alerting an operator in case the given random number - sequence number pair has not previously been stored in the storage means (column 19, line 67 to column 20, line 2, the output validation report serves to alert an operator).

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10. Claims 75, 83-85, and 87-90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman in view of Keesee.

As to claim 75, Goldman teaches a secure and auditable system comprising:  
a random number generator (column 18, line 61 to column 19, line 3, the validation code),

means for providing a sequence number for each generated random number, so as to create a random number - sequence number pair (column 18, lines 37-41 and column 19, lines 22-25, the internal sequence number which, when combined with the validation code, produces the "sync" number),

a first storage means for storing the created random number - sequence number pair (column 19, lines 52-59 and Fig. 7, reference 91),

verifying means for verifying, at a chosen time, stored random number - sequence number pairs against a transaction created in the online system, so as to ensure that every stored random number - sequence number pair is an authentic random number - sequence number pair (column 19, lines 49-67), but does not specifically teach an online system.

However, Keesee teaches that an on-line system (and more specifically an on-line lottery system) is well known and expected in the art (column 1, lines 17-18).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the teachings of Goldman to use the

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system on-line as indicated in Keesee to obtain security and audit ability for an on-line system.

As to claim 83, Goldman teaches further comprising means for issuing a ticket comprising information relating to the sequence number (column 16, line 67 to column 17, line 6 and column 19, lines 14-21, the "Inventory Serial Number" provides information relating to the sequence number).

As to claim 84, Goldman teaches wherein the on-line system is a lottery, and the issued ticket is a lottery ticket (Abstract, lines 1-5).

As to claim 85, Goldman teaches wherein the ticket is issued based upon the random number and a probability table (column 10, lines 25-43), the on-line system further comprising means for updating the probability table in response to the issued ticket, so as to maintain an at least substantially fixed winning/no winning ratio (column 10, lines 43-48).

As to claim 87, Goldman teaches further comprising means for alerting an operator and an auditor in case the verification results in the discovery of one or more non- authentic random number - sequence number pairs (column 19, line 44 to column 20, line 2, the output validation report serves to alert an operator).

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As to claim 88, Goldman teaches wherein the verifying means further comprises:

- means for checking whether a given random number - sequence number pair has previously been stored in the storage means (column 19, lines 59-62),

- means for marking said given random number - sequence number pair as a true pair in case it has previously been stored in the storage means (column 19, lines 62-67, having reversed the randomizing process and checked the “sync” number (i.e. random number – sequence number pair) against the reference-file (i.e. storage means) the validation program is able to determine whether the provided number is valid, which is to say it must be in the reference-file and possess valid game data), and

- means for alerting an operator in case the given random number - sequence number pair has not previously been stored in the storage means (column 19, line 67 to column 20, line 2, the output validation report serves to alert an operator).

As to claim 89, Goldman teaches a device for providing security and audit ability in a system, the device comprising:

- a random number generator (column 18, line 61 to column 19, line 3, the validation code),

- means for providing a sequence number for each generated random number, so as to create a random number - sequence number pair (column 18, lines 37-41 and column 19, lines 22-25, the internal sequence number which, when combined with the validation code, produces the “sync” number),

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- storage means for storing the created random number - sequence number pair (column 19, lines 52-59 and Fig. 7, reference 91),

- verifying means for verifying, at a chosen time, stored random number - sequence number pairs against a transaction created in the online system, so as to ensure that every stored random number - sequence number pair is an authentic random number - sequence number pair (column 19, lines 49-67),

the verifying means further comprising:

- means for checking whether a given random number - sequence number pair has previously been stored in the storage means (column 19, lines 59-67),

- means for marking said given random number - sequence number pair in the online system as a true pair in case it has previously been verified against the random number - sequence number pair in an evidence storage means (column 19, line 67 to column 20, line 2),

- means for alerting an operator in case the given random number - sequence number pair has not previously been verified, wherein the storage means and the random number generator have limited access (column 19, line 67 to column 20, line 2, the output validation report serves to alert an operator), but does not specifically teach an online system.

However, Keesee teaches that an on-line system (and more specifically an on-line lottery system) is well known and expected in the art (column 1, lines 17-18).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the teachings of Goldman to use the

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system on-line as indicated in Keesee to obtain security and audit ability for an on-line system.

As to claim 90, Goldman teaches a computer program product for obtaining security and audit ability in a system (Fig. 7, column 5, lines 46-47, and column 18, lines 23-31), the program being adapted to:

- generate a random number by means of a random number generator (column 18, line 61 to column 19, line 3, the validation code),

- provide a sequence number for each of the random numbers generated so as to create a random number - sequence number pair (column 18, lines 37-41 and column 19, lines 22-25, the internal sequence number which, when combined with the validation code, produces the "sync" number),

- store the created random number - sequence number pair in a first storage means (column 19, lines 52-59 and Fig. 7, reference 91),

the program further being adapted to verify stored random number - sequence number pairs, so as to ensure that every stored random number - sequence number pair is an authentic random number - sequence number pair (column 19, lines 49-67), but does not specifically teach an online system.

However, Keesee teaches that an on-line system (and more specifically an on-line lottery system) is well known and expected in the art (column 1, lines 17-18).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the teachings of Goldman to use the

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system on-line as indicated in Keesee to obtain security and audit ability for an on-line system.

11. Claims 76 and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman in view of Keesee and further in view of Muir.

As to claim 76, Goldman and Keesee teach an on-line system according to claim 75, but do not specifically teach wherein the storage means has one or more limited access area(s).

However, Muir teaches wherein the storage means has one or more limited access area(s) (page 1, lines 17-21).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the teachings of Goldman to allow only limited access to the storage means as indicated in Muir to increase physical security for the on-line system.

As to claim 77, Muir teaches wherein access to the limited access area(s) can only be obtained by one or more authorised persons (page 1, lines 22-31, where an authorised person is someone possessing a key to a physical lock and/or a government inspector).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the teachings of Goldman to allow only



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limited access to the storage means as indicated in Muir to increase physical security for the on-line system.

12. Claims 78-82 and 91-92 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman in view of Keesee and further in view of Szrek.

As to claim 78, Goldman and Keesee teach an on-line system according to claim 75, but do not specifically teach wherein the first storage means further comprises means for generating a transaction log and a get list.

However, Szrek teaches wherein the first storage means further comprises means for generating a transaction log and a get list (column 4, lines 9-16).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the teachings of Goldman to use a transaction log as part of the limited access area indicated in Szrek to increase audit ability for the on-line system, in particular adding the ability to track the verifications and access of the first limited access area in a separate secure area.

As to claim 79, Szrek teaches wherein the transaction log is stored in a second storage means (column 7, lines 45-57).

As to claim 80, Goldman and Keesee teach an on-line system according to claim 78, but do not specifically teach wherein the data stored in the first storage means is

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used to audit transactions in a online system by an audit processing means.

However, Szrek teaches wherein the data stored in the first storage means is used to audit transactions in a online system by an audit processing means (column 4, lines 23-33).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the teachings of Goldman to use a transaction log as in Szrek to increase audit ability for the on-line system, in particular adding the ability to track the verifications and access of the first limited access area in a separate secure area.

As to claim 81, Goldman and Keesee teach an on-line system according to claim 75, but do not specifically teach wherein the data stored in the second storage means can be used to audit transactions in a online system by an audit processing means.

However, Szrek teaches wherein the data stored in the second storage means can be used to audit transactions in a online system by an audit processing means (column 7, lines 45-57).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the teachings of Goldman to use a transaction log as part of the limited access area indicated in Szrek to increase audit ability for the on-line system, in particular adding the ability to track the verifications and access of the first limited access area in a separate secure area.

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As to claim 82, Goldman and Keesee teach an on-line system according to claim 75, but do not specifically teach wherein the first storage means, second storage means and the audit processing means are concealed in a certification zone.

However, Szrek teaches wherein the first storage means, second storage means and the audit processing means are concealed in a certification zone (column 6, line 67 to column 7, line 29, all of the processors communicate with encryption, which inherently requires authorization to decrypt).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the teachings of Goldman to use a transaction log as part of the limited access area indicated in Szrek to increase audit ability for the on-line system, in particular adding the ability to track the verifications and access of the first limited access area in a separate secure area.

As to claim 91, Goldman and Keesee teach the computer program product of claim 90, but do not specifically teach wherein a transaction log is generated (column 4, lines 9-13), the transaction log comprising:

- a timestamp,
- a game-id,
- a customer-id,
- a sequence number, and
- a random number,

wherein the transaction log is stored in a second limited access area.

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However, Szrek teaches wherein a transaction log is generated, the transaction log comprising:

- a timestamp (column 4, lines 13-16),
- a game-id (column 4, lines 13-16, where the actual event that was generated is the method of claim 62, the game-id in particular being anticipated in Goldman, column 6, lines 30-35 and 47-50),
- a customer-id (column 4, lines 13-16 and 37-40, the personal computers or other processors are identified by digital signatures (i.e. customer-ids)),
- a sequence number (column 4, lines 13-16, where the actual event that was generated is the method of claim 62), and
- a random number (column 4, lines 13-16, where the actual event that was generated is the method of claim 62),

wherein the transaction log is stored in a second limited access area (column 4, lines 49-54).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the teachings of Goldman to use a transaction log as part of the limited access area indicated in Szrek to increase audit ability for the on-line system, in particular adding the ability to track the verifications and access of the first limited access area in a separate secure area.

As to claim 92, Goldman and Keesee teach the computer program product of claim 90, but do not specifically teach wherein the online generated information in a first

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storage means and a second storage means is used to audit transactions in the online system by one or more audit processes performed by an audit processing means.

However, Szrek teaches wherein the online generated information in a first storage means and a second storage means is used to audit transactions in the online system by one or more audit processes performed by an audit processing means (column 7, lines 45-57).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the teachings of Goldman to use a transaction log as part of the limited access area indicated in Szrek to increase audit ability for the on-line system, in particular adding the ability to track the verifications and access of the first limited access area in a separate secure area.

13. Claims 72 and 86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goldman in view of Keesee and further in view of U.S. Patent No. 4,351,982 (hereinafter "Miller").

As to claim 72, Goldman and Keesee teach a method for an on-line system according to claim 62, but do not specifically teach wherein the on-line system is an encryption system.

However, Miller teaches using a secure on-line system for encryption (column 4, lines 23-42).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the teachings of Goldman and Keesee to use the secure and auditable on-line system as an encryption/key generation system as indicated in Miller since it is a standard way to provide a trusted key repository/verification system that is still easily accessible.

As to claim 86, Goldman and Keesee teach an on-line system according to claim 75, but do not specifically teach wherein the on-line system is an encryption system.

However, Miller teaches using a secure on-line system for encryption (column 4, lines 23-42).

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the teachings of Goldman and Keesee to use the secure and auditable on-line system as an encryption/key generation system as indicated in Miller since it is a standard way to provide a trusted key repository/verification system that is still easily accessible.

### ***Response to Arguments***

14. Applicant's arguments, with regards to claims 62 and 64-92, filed March 5, 2009 have been fully considered but they are not persuasive.

15. On pages 12-13 of the Applicant's Response under the "Legal Standard for Determining Prima Facie Obviousness", Applicant argues that the obviousness rejections are improper due to lack of appropriately resolved Graham factors, lack of

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explicit rationales, and that the Examiner is relying on hindsight reconstruction to pick and choose only selective [*sic*] portions of the prior art.

16. The Examiner respectfully disagrees with each of the Applicant's arguments.

First, the primary considerations of nonobviousness as established in *Graham v. Deere* are as follows:

- i. the scope and content of the prior art;
- ii. the differences between the claimed invention and the prior art; and
- iii. the level of ordinary skill in the prior art.

The scope and content of the prior art is clearly established by the cited portions and corresponding explanations of the prior art, differences between the claimed invention and the prior art have been explicitly stated (as in original, and current, office action rejection of claim 62 "... but does not specifically teach its use in an on-line system."), and as "Office personnel may rely on their own technical expertise to describe the knowledge and skills of a person of ordinary skill in the art" (MPEP 2141) the Examiner's judgment that one of ordinary skill in the art would have recognized the benefit of combining, for example, Goldman and Keese, stands as is.

Second, explicit rationales are provided with each additional reference in the original office action. They were not repeated for brevity's sake as they remain identical or nearly for all instances of the secondary references, but see for example in the original office action the rejections of claim 62 following paragraph 16, claim 63 following paragraph 17, claim 65 following paragraph 18 and claim 72, following

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paragraph 19. For the Applicant's benefit, these rationales have been placed in all relevant rejections in the current office action.

Third, all references were considered in their entirety. The Examiner is unaware of any portion of the primary reference teaching away from any of the modifications suggested by the secondary references or any portions of the secondary references which when added would render the primary reference unsatisfactory for its intended purpose.

If, rather, it is the Applicant's contention that the Examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

17. On pages 13-14 of the Applicant's Response under "The Nonobviousness of the Combination of the Cited References", Applicant argues that the primary reference fails to disclose or suggest the method/system being used in an on-line system, that Szrek fails to "disclose or suggest the use of a customer ID in the meaning of the present invention," and that Szrek does not give any motivation to arrive at the claimed invention since the reference is irrelevant to an auditable on-line gaming system.



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18. The Examiner again respectfully disagrees with all of the Applicant's arguments or finds them to be moot.

First, the fact that Goldman fails to disclose or suggest its use in an online system has already been admitted, but the addition of Keesee for this purpose is found to be a well known and expected addition to a computer system at the time the invention was made.

Second, the allegation that Szrek fails to disclose or suggest the use of a customer ID in the meaning of the present invention appears to be completely unsubstantiated as neither the specification nor the claims provide any particular details about the structure of the customer ID and so fail to differentiate it from the digital signature as used in the transaction log taught by Szrek since "who the customer is" (as required by the instant specification) is under the broadest reasonable interpretation directly associated with video gaming machine taught by Szrek.

Third, the failure of Szrek to provide explicit motivation is irrelevant, as the claimed element taught by Szrek is the secure transaction log which is of obvious benefit and thus very relevant for an auditable on-line gaming system.

19. Therefore, in view of the above reasons, Examiner maintains rejections.

### ***Conclusion***

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Travis Pogmore whose telephone number is (571)270-7313. The examiner can normally be reached on Monday through Thursday between 8:30 a.m. and 4:00 p.m. eastern time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nasser Moazzami can be reached on 571-272-4195. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Nasser G Moazzami/  
Supervisory Patent Examiner, Art Unit 2436

/Travis Pogmore/  
Examiner, Art Unit 2436